IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.65 OF 2007
IN
SUIT NO.3186 OF 2006

M/s.Star Associates ...Plaintiffs

Versus

Premabai Parshuram Patil & Ors. ...Defendants

And

Shri.Dhaneshwar Janardan Patil
& Anr. ...Respondents

WITH

CHAMBER SUMMONS NO.133 OF 2007
IN
SUIT NO.3186 OF 2006

M/s.Star Associates ...Plaintiffs

Versus

Premabai Parshuram Patil & Ors. ...Defendants

And

M/s.Evershine Developers Pvt.Ltd. ...Respondents

.....

Mr.A.C.Tamhane i/b M/s.Tamhane & Co. for Plaintiffs.

Mr.A.S.Naik for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

APRIL 27, 2007.

P.C.

1. Heard Counsel for the parties.

2. In my order dated 20th April 2007, I have noted that there is nothing in the Plaint to even remotely suggest that Defendant Nos.4 to 7 were associated with the execution of the suit agreement. It is on that premiss, I deferred the hearing of the Chamber Summonses so as to enable the Plaintiffs to take necessary steps as may be advised.

3. Today, Counsel for the Plaintiffs has drawn my attention to Paragraph 26 of the Plaint. Relying on the said averments, it is argued that the Plaintiffs have made out alternative case against Defendants 4 to 7 that even if they have no right in the suit property, they had agreed to sell the entire suit property to the Plaintiffs and they will be bound by the said Agreement.

4. There is substance in this submission. In

the Plaint, in Paragraph 26, there is clear assertion in this behalf. In that sense, the observation made by me in Paragraph 1 of my order dated 20th April 2007 is not correct. That observation came to be made as the Counsel for the Plaintiffs was unable to point out any averment in the Plaint at the relevant time, inspite of sufficient opportunity given to him. However, today, as the correct position is brought to my notice, those observations will have to be recalled and effaced from the record. That however, does not mean that I am accepting the arguments of the Plaintiffs that the Defendants 4 to 7, in fact, have no right in the suit property or for that matter, have agreed to sell the entire suit property to the Plaintiffs and will be bound by the said agreement. Those aspects will have to be considered at the appropriate stage.

5. Today, the question that requires to be examined in the present Chamber Summonses is whether Respondents should be impleaded as Defendants 10 to 12 in the present Suit. There is no dispute that Respondents claim to have purchased

interest in the self same property from Defendants 4 to 7. If so, assuming that the Respondents are not necessary parties to the present Suit, they will be proper parties for full, complete and effectual adjudication of all the issues raised in the present Suit and their presence in the present Suit will also avoid multiplicity of proceedings.

6. Thus understood, I am inclined to allow this Chamber Summons in terms of prayer clauses (a), (b) and (c) in the interest of justice. Amendment be carried out within four weeks from today.

7. Ad-interim order presently operating in favour of the Plaintiffs in the present Chamber Summons, to continue till 11th June 2007 to enable the Plaintiffs to seek extension thereof, if so advised.

8. That application will be considered on its own merits in accordance with law. All questions are left open.

9. Impleadment of Respondents as Defendants 10 to 12 is without prejudice to the rights and contentions available to Defendants 4 to 7 as well as Respondents - the proposed Defendants 10 to 12. No order as to costs.

A.M.KHANWILKAR, J.